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MEMO ENDORSEMENT

March 28, 2006

VIA EMAIL (Orders and Judgment Clerk)

Honorable Stephen C. Robinson
United States Courthouse
300 Quarropas Street, Room 633
White Plains, New York 10601-4150

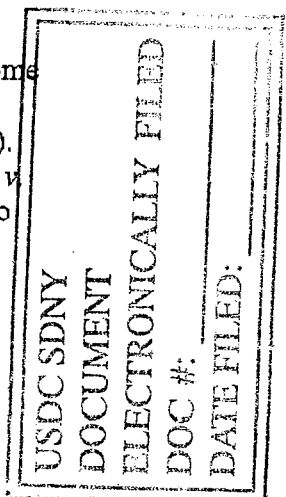
Re: *Hamilton v. Unlimited Care, Inc.*
Case No.: 06CV706

Dear Judge Robinson:

As counsel for Plaintiffs individually and on behalf of all other persons similarly situated, we are submitting the parties' joint request that the Court stay this action pending a decision from the Court of Appeals for the Second Circuit in *Coke v. Long Island Care at Home*, Docket No. 03-7666. This joint request is made because the existence of an overtime pay claim for persons employed by a home care agency as companions will be determined by the Second Circuit in *Coke*. Since the *Coke* ruling will affect this case, the parties ask that the Court take no action until the Second Circuit rules. A Stipulation and Order is enclosed for your review.

Plaintiffs commenced this action by filing a Complaint on or about January 31, 2006. In the Complaint, Plaintiffs alleged that they were home health aides employed by Defendant to provide home care to the infirm in their homes. Plaintiffs believes they are owed wages for overtime under the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* ("FLSA") and New York Labor Law, and seeks to represent a class of similarly situated employees.

For background, in 1974, the United States Department of Labor issued regulations implementing an exemption to the overtime provisions of the FLSA for home health care aides. These regulations applied to individuals like Plaintiff, who were employed as home healthcare aides within private homes. *See* 29 C.F.R. § 552.109 (a). However, in 2004, the Second Circuit held these regulations unenforceable. *See Coke v. Long Island Care at Home*, 376 F.3d 118 (2d Cir. 2004). This decision was appealed to the United States Supreme Court and on January 23, 2006, the Supreme Court vacated and remanded this decision for further consideration in light of a United States Department of Labor Wage and Hour Advisor Memorandum issued after the Second



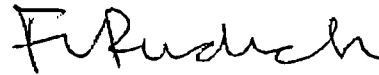
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Circuit's decision. *Long Island Care at Home v. Coke*, 2006 U.S. Lexis 918 (January 23, 2006). The Second Circuit has not yet issued a decision following the remand.

Thus, based on the foregoing, the *Coke* decision is likely to control the outcome of this case. Accordingly, the parties request that the Court stay this action pending the Second Circuit's decision in *Coke*, and submit the enclosed Stipulation for your consideration

Thank you for your attention to this matter.

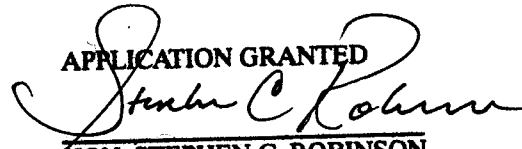
Respectfully submitted,



Fran L. Rudich

FLR/jr
Enclosure

cc: Jonathan P. Arfa, Esq.
(Via Facsimile)

APPLICATION GRANTED

HON. STEPHEN C. ROBINSON
4/3/06